



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0, 1, 51, 61, 63, and 69

[WC Docket Nos. 18-141, 17-144, 16-143, 05-25, and RM-10593; DA 19-281]

Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau reopens the secure data enclave, supplements the record in the business data services (BDS) and USTelecom proceedings with additional tables and information placed in the secure data enclave, and seeks focused comment on whether the additional data informs the extent of competition for transport.

DATES: Comments are due **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Participants in the price cap BDS proceedings previously authorized to access the secure data enclave pursuant to the Protective Orders in the price cap BDS proceedings may request renewed access by emailing SpecialAccess@fcc.gov. Parties that were not previously authorized to access the secure data enclave must file an Acknowledgement of Confidentiality requesting access and send a copy to SpecialAccess@fcc.gov. For participants in the price cap BDS proceedings, instructions on requesting access to the secure data enclave are provided in a public notice released on November 5, 2018. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and rely

comments on or before the dates indicated on the first page of this document in dockets 17-144, 16-143, and 05-25. Procedures for using the Commission's Electronic Comment Filing System can be found in the *Second Further Notice*.

For participants in the USTelecom Forbearance Petition proceeding, the forthcoming protective order governing access to the secure data enclave for that proceeding will include instructions on requesting access to the secure data enclave and an Acknowledgement of Confidentiality that parties must execute and send to SpecialAccess@fcc.gov. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document in docket 18-141. Procedures for using the Commission's Electronic Comment Filing System can be found in a public notice released on May 8, 2018.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries

must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Christopher Koves, Pricing Policy Division, Wireline Competition Bureau at 202-418-8209 or by email at Christopher.Koves@fcc.gov, or Michele Levy Berlove, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1477 or via email at Michele.Berlove@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of a document, WC Docket Nos. 18-141, 17-144, 16-143, 05-25; RM-10593, released on April 15, 2019. A full-text version of this document can be obtained at the following internet address:

<https://www.fcc.gov/document/wcb-reopens-norc-and-seeks-comment-bds-and-ustelecom-proceedings>.

Synopsis

1. The Wireline Competition Bureau (Bureau) makes several announcements regarding the above-referenced dockets. First, the Bureau announces that it is supplementing the record in the price cap business data services (BDS) proceedings with tables and accompanying

information prepared by the Office of Economics and Analytics, derived from highly confidential data from the *2015 Data Collection*. These tables and accompanying information show the distances from competitive provider fiber to incumbent local exchange carrier (LEC) wire centers and end user buildings with BDS demand in price cap areas (the *April Data Tables*). The Bureau seeks focused public comment on the extent to which the *April Data Tables* inform the extent of competition and competitive pressure in the market for lower speed (DS3 and below) time division multiplexing (TDM) transport services in price cap areas.

2. Second, to allow parties access to the *2015 Data Collection*, including the *April Data Tables*, and the opportunity to comment, the Bureau announces that it will (1) reopen the secure data enclave which will house these data upon publication of this document in the Federal Register; and (2) close it at the end of the comment and reply period established by this document, unless an interested party demonstrates a continuing need for access.

3. Third, pending the resolution of any objections to the Bureau incorporating the *2015 Data Collection* into the record of the USTelecom Forbearance Petition proceeding, the Bureau announces that it will also incorporate the *April Data Tables* into the record of that proceeding. The Bureau will allow access to the secure data enclave for parties in the USTelecom Forbearance Petition proceeding subject to a forthcoming protective order.

4. Fourth, the Bureau also seeks comment in the USTelecom Forbearance Petition proceeding on the extent to which the *2015 Data Collection*, including the *April Data Tables*, provide relevant information to evaluate USTelecom's request for forbearance from the requirements to provide transport as an unbundled network element (UNE) pursuant to section 251(c)(3) of the Act and section 51.319(d) of the Commission's rules. In addition, for the purposes of the USTelecom Forbearance Petition proceeding, the Bureau seeks comment on the

public filings submitted in response to the *Second Further Notice and Further Notice* in the BDS proceedings, WC Docket Nos. 17-144, 16-143 and 05-25, since it was released on October 24, 2018.

5. The Bureau will place the *April Data Tables* in the secure data enclave which, pursuant to the protective orders in the price cap BDS proceedings, is the exclusive method for accessing highly confidential data submitted as part of the *2015 Data Collection*. Parties seeking to access the *April Data Tables* for purposes of participating in the price cap BDS proceedings must follow the procedures provided for in the Protective Orders in that proceeding for accessing highly confidential data. Those seeking access to the *April Data Tables* for purposes of participating in the USTelecom Forbearance Petition proceeding must follow the procedures set forth for accessing highly confidential data in the forthcoming protective order in that proceeding.

6. Participants in the price cap BDS proceedings previously authorized to access the secure data enclave pursuant to the Protective Orders in the price cap BDS proceedings may request renewed access by emailing SpecialAccess@fcc.gov. Parties that were not previously authorized to access the secure data enclave must file an Acknowledgement of Confidentiality requesting access and send a copy to SpecialAccess@fcc.gov. For participants in the price cap BDS proceedings, instructions on requesting access to the secure data enclave are provided in a public notice released on November 5, 2018. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and rely comments on or before the dates indicated on the first page of this document in dockets 17-144, 16-143, and 05-25. Procedures for using the Commission's Electronic Comment Filing System can be found in the *Second Further Notice*.

7. For participants in the USTelecom Forbearance Petition proceeding, the forthcoming protective order governing access to the secure data enclave for that proceeding will include instructions on requesting access to the secure data enclave and an Acknowledgement of Confidentiality that parties must execute and send to SpecialAccess@fcc.gov. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document in docket 18-141. Procedures for using the Commission's Electronic Comment Filing System can be found in a public notice released on May 8, 2018.

8. Paperwork Reduction Act. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

9. Ex Parte Presentations. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may

provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

10. For further information, please contact Christopher Koves, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-8209 or via email at Christopher.Koves@fcc.gov, or Michele Levy Berlove, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1477 or via email at Michele.Berlove@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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